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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,000	03/17/2000	Shiri Kadambi	P108339-09065	3384
32294	7590	02/21/2006		EXAMINER
		SQUIRE, SANDERS & DEMPSEY L.L.P.		HOANG, THAI D
		14TH FLOOR		ART UNIT
		8000 TOWERS CRESCENT		PAPER NUMBER
		TYSONS CORNER, VA 22182		2668

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/528,000	KADAMBI ET AL.
	Examiner Thai D. Hoang	Art Unit 2668

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 December 2005.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3 and 5 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 3 is/are allowed.  
 6) Claim(s) 1-2 and 5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
HANH NGUYEN  
PRIMARY EXAMINER

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIP3A (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2 and 5 are rejected under 35 U.S.C. 102(e) as being unpatentable over Schwartz et al, US Patent No. 6,434,115 B1, hereafter referred to as Schwartz.

Regarding claim 1, Schwartz discloses a system and method for switching packets in a network. Schwartz discloses that the system comprising:

a switching node (fig. 1; element 11) that receives a plurality of incoming data packets (25xx) at a plurality of input ports (20s) for transmission the data packets to a plurality of output ports (21s), wherein the switching node 11 is one of a plurality of switching nodes 11s configured in a stack; see fig. 1 and 2 (receiving an incoming packet on a first port of a network switch for transmission to a destination port);

an input queues 41(n) couples the meta-data packets enqueued therein in order to the packet pass/drop circuit 42(n). The packet pass/drop circuit 42(n) makes a pass/drop determination based on status information for the output port module 21(n) associated with the processor module 40(n), which is stored in the output port module(n) status information store 43(n). The output port status information stored in the store 43(n) reflects the output port module's operational status, in particular its capacity at any point in time to receive additional packets from the input port modules 20(n) for transmission, and may be a function of the amount of buffering that the output port module 21(n) has available to packets retrieved from the input port modules 20(n) for transmission or drop packets if the capacity of the buffer is not available; col. 11, line 47-col. 13, line 2 (determining if said destination port is a monitored port; determining a queue status of said destination port, if said destination port is determined to be a monitored port; prescheduling transmission of said incoming packet to said destination port if said destination port is determined to be a monitored port; wherein the step of prescheduling transmission comprises dropping said incoming data packet only when the queue status of the destination port indicates that a queue for the destination port is full).

Furthermore, Schwartz discloses the header portion of a data packet includes information that assists in routing the packet through the network. For each packet received, the input port module 20(n) buffers the packet and identifies from the destination address contained in the packet's header the appropriate route therefor, in the process identifying the particular output port module 21(n) to which the packet is to

be sent and one of one or more output ports 26(n)(1) through 26(n)(M) on the output port module 21(n) through which the packet is to be transmitted to facilitate forwarding of the packet to the destination device 12( $m_D$ ) or to the next switching node 11(n') along the path to facilitate routing of the packet to the destination device 12( $m_D$ ). Col. 4, lines 30-53, col. 5, lines 21-31. Also, Schwartz discloses the system handles a high traffic capacity, col. 23, lines 60-61 (wherein the network switches in the stack are connected through high performance interconnect links and the method further comprises stripping a module header from packets received via the high performance interconnect links).

Regarding claim 2, Schwartz discloses that the status of the output ports are monitored stored in the store 43(n), and the pass/drop circuit 42 (n) makes pass/drop determination based on this information; col. 12, lines 16- col. 13, line 2 (classifying said queue status of said destination port; and taking action in accordance with said classification of said queue status).

Regarding claim 5, Schwartz discloses the status information in the provide store 43(n) is provided by the associated output port module 21(n), as represented by the OP\_PORT (n)\_STATUS output port (n) status signal, which forms one of the OUT(n)\_CTRL/STATUS output (n) control/status signals; col. 12, lines 23-30 (determining if said destination port is a monitored port further comprises the step of receiving a status message on a communication channel)

***Allowable Subject Matter***

Claim 3 is allowed for reasons given in the previous action.

***Response to Arguments***

Applicant's arguments, see pages 2-3, filed 12/02/2005, with respect to claims 1-2 and 5 under 35 USC § 112, second paragraph, have been fully considered and are persuasive. The rejection of claims 1-2 and 5 under 35 USC § 112, second paragraph, has been withdrawn.

Applicant's arguments, see pages 5-6, filed on 12/02/2005, with respect to claim 1 under 35 USC § 102 (e), have been fully considered but they are not persuasive.

Regarding claim 1, page 5 of the remarks, Applicants argue that the reference does not teach the limitation "a plurality of network switches configured in a stack" as recited in claim 1 and "[T]he switches of Schwartz are interconnected in a "nodal" arrangement, which is not equivalent to the recited stack configuration." Examiner respectfully disagrees. According to the application, pages 99-101, and figures 26-27, the statement "network switches configured in a stack" recited in the claim 1 is interconnection between a plurality of switches in a ring and/or crossbar topology. In the telecommunication art, the stacked switching system allows each switch connects with other switches in a determined topology (ring, star, daisy-chaining, mesh, loop...). Therefore, the interconnection of a plurality of the switches in figures 1-2 of the reference is a stacked switching configuration. In addition, all network elements (routers, switches, hubs...) are stackable for expanding or increasing the capacity of the network without replacement current devices. Also, Applicants define a stacked switch configuration, "switches are connected such that each switch in the stack is in direct communication with every other switch in the stack" (sic), and based on this definition

applicants concluded that each switch in the reference “is not directly connected to every other switch”, therefore, the reference does not teach “a plurality of network switches configured in a stack.” Examiner respectfully disagrees. First, the specification does not disclose a definition for a “stacked switching” as recited in the remarks. Secondly, this definition is not generally understood by those skilled in the art. In other words, the definition of a “stacked switching” as recited in the remarks is incorrect.

Page 6 of the remarks, Applicants argue that the communication interconnects are not high performance links, because “Schwartz discloses that the interconnects are “wires, optical fiber links, and so forth” and makes no mention of the links being capable of high performance data (Ethernet, fast Ethernet, and gigabit Ethernet) data transmission.” Examiner respectfully disagrees. Since the optical fiber links could be able carry optical signal at level N (OC-N), wherein  $n=1, 3, 9, 12, 18, 24, 36, 48, 192, 256, \dots$ . For example, OC-1= 51.84 Mbps, OC-3=155.52 Mbps, OC-48= 2.488 Gbps, OC-192= 9.953 Gbps and so on. Therefore, the optical fiber links disclosed by Schwartz are high performance links, because the transmission rates of these links are larger than Ethernet, fast Ethernet (100Mbps), and gigabit Ethernet (1000Mbps).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2668

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai D. Hoang whose telephone number is (571) 272-3184. The examiner can normally be reached on Monday-Friday 10:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TH  
Thai Hoang



HANH NGUYEN  
PRIMARY EXAMINER